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# MANAGEMENT DIRECTIVE

515.12  
Amended  
Number

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## COMMONWEALTH OF PENNSYLVANIA GOVERNOR'S OFFICE

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Subject:

Confidential Employees

By Direction Of:

  
Robert S. Barnett, Secretary of Administration

Date:

September 28, 2004

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This directive describes the applicability to confidential employees of the Master Agreement between the Commonwealth and the American Federation of State, County and Municipal Employees (AFSCME). This amendment contains minor revisions and is being reissued to incorporate changes in the Master Agreement effective July 1, 2003.

**1. POLICY.** By Executive Board Resolution dated October 19, 1973, employees who have been designated as "confidential" have been granted general salary adjustments; shift differentials; improvements in hospital, medical, and life insurance benefits; leave entitlements and holiday entitlements; salary adjustments for performing work in a higher classification; and compensation for work performed in an overtime status provided in the respective agreement or memorandum of understanding covering nonconfidential employees in the same job classification.

**2. PROCEDURE.** Each Article of the Master Agreement with AFSCME, effective through June 30, 2007, including Appendix I for the Clerical, Administrative, and Fiscal Unit and Appendix M for the Professional, Administrative, and Fiscal Unit, is shown below with an indication of its relevance to confidential employees. When an Article is not applicable, the *Civil Service Act*, *Management Directive 505.7*, *Personnel Rules*, *Management Directive 230.10*, *Travel and Subsistence Allowances*, or other applicable policies remain in effect.

**Preamble** – not applicable.

**Article 1, Recognition.** Confidential employees are excluded by law from representation for collective bargaining purposes by an employee organization.

**Article 2, Management Rights** – not applicable.

**Article 3, Union Security.** Confidential employees may not be represented by an employee organization.

**Article 4, Dues Deduction.** Union dues or Fair Share fees may not be checked off for a confidential employee. If an employee having dues or Fair Share deducted is transferred to a position which has been designated confidential in accordance with *Management Directive 590.2*, *Confidential Positions and Employees*, the checkoff of dues or Fair Share fees should be halted.

**Article 5, Credit Union.**

Sections 1, 2, and 3 – applicable.

Section 4 – not applicable.

**Article 6, Hours of Work – not applicable.**

**Article 7, Rest Periods – not applicable.**

**Article 8, Meal Periods – not applicable.**

**Article 9, Eating and Sanitary Facilities – not applicable.**

**Article 10, Holidays.**

Sections 1, 2, 3, 4, 5 – applicable.

Section 6 – applicable, except that agreements to buy-out earned compensatory time may be entered into directly with the confidential employee.

Section 7 – not applicable.

Sections 8, 9, 10, 11, 12, 13 – applicable.

**Article 11, Personal Leave Days – applicable, except for Section 2 provisions regarding use of Master Agreement seniority when it is necessary to limit the number of employees on Personal Leave.**

**Article 12, Leaves of Absence.**

Sections 1, 2, 3 – applicable.

Section 4 – not applicable.

Section 5 – applicable.

Section 6 – applicable.

**Article 13, Vacations.**

Sections 1, 2 – applicable.

Sections 3, 4 – not applicable.

Sections 5, 6, 7, 8, 9 – applicable.

Section 10 – not applicable.

Section 11 – applicable.

Sections 12, 13 – not applicable.

Sections 14, 15 – applicable.

**Article 14, Sick and Bereavement Leave.**

Sections 1, 2, 3, 4, 5, 6, 7, 8, 9 – applicable.

Sections 10, 11 – not applicable.

Section 12 – applicable.

**Article 15, Civil Leave – applicable.**

**Article 16, Military Leave – applicable.**

**Article 17, Leaves of Absence Without Pay.**

Section 1 – applicable.

Sections 2, 3 – not applicable.

Sections 4, 5, 6, 7 – applicable.

Section 8 – applicable, except that return from leave is subject to the provisions of the *Civil Service Act* or other applicable furlough procedures.

Section 9 – applicable.

**Article 18, Parental Leave – applicable, except that confidential employees do not accrue contractual seniority rights while in a confidential position.**

**Article 19, Salaries and Wages – applicable.**

**Article 20, Overtime.**

Sections 1, 2, 3 – applicable.

Section 4 – applicable, except that agreements to take compensatory time at the appropriate rate in lieu of overtime pay may be entered into directly with the confidential employee.

Section 5 – not applicable.

Sections 6, 7, 8 – applicable.

Section 9 – not applicable.

Section 10 – applicable.

**Article 21, Shift Differential – applicable.**

**Article 22, Call Time – not applicable.**

**Article 23, Standby Time – not applicable.**

**Article 24, Life Insurance – applicable.**

**Article 25, Health Benefits – applicable.**

**Article 26, Work-Related Injuries.**

Sections 1, 2, 3, 4, 5, 6 – applicable.

Section 7 – applicable, except that return from leave is subject to the provisions of the *Civil Service Act* or other applicable furlough procedures.

Sections 8, 9, 10 – applicable.

Section 11 – not applicable. Confidential employees may, however, be assigned modified duty at an agency's discretion (consistent with their doctor's certification).

- Sections 12, 13, 14, 15 – applicable.

**Article 27, Classification.**

- Sections 1, 2 – not applicable. Confidential employees may prosecute a request for position reclassification through their agency human resources office.

Section 3 – applicable, except that any grievance which may arise will be processed through the employee-initiated Classification Appeal Procedure.

Sections 4, 5, 6 – not applicable.

**Article 28, Discharge, Demotion, Suspension, and Discipline – not applicable.**

**Article 29, Seniority – not applicable.** See *Management Directive 590.2* for guidance regarding seniority of employees moving between confidential and nonconfidential positions.

**Article 30, Uniforms, Clothing, and Equipment – applicable.**

- **Article 31, Discrimination/Employee Treatment – not applicable.** Confidential employees should, however, report allegations of discrimination or sexual harassment to their agency human resource director or equal employment opportunity specialist.

**Article 32, Union Business – not applicable.**

**Article 33, Special and Part-Time Employees –not applicable.**

**Article 34, Peace and Stability – not applicable.**

**Article 35, Miscellaneous Provisions.**

Sections 1, 2, 3, 4 – not applicable.

Section 5 – applicable.

Section 6 – not applicable.

Section 7 – applicable.

Sections 8, 9 – not applicable.

Sections 10, 11 – applicable.

Sections 12, 13, 14, 15, 16 – not applicable.

Section 17 – applicable.

Section 18 – not applicable.

**Article 36, Equal Employment Opportunity.** The Commonwealth's Equal Employment Opportunity Program and *The Americans With Disabilities Act* apply to all positions. The contract grievance procedure is not, however, available for the resolution of any disputes.

**Article 37, Grievances and Arbitration/Standard Grievance Procedure.** This Article does not apply to confidential employees. Appeals may be filed with the State Civil Service Commission as provided for in the *Civil Service Act* and *Rules of the Commission* or as provided by the employee's agency.

**Article 38, Grievances and Arbitration/Accelerated Grievance Procedure.** This Article does not apply to confidential employees. Appeals may be filed with the State Civil Service Commission as provided for in the *Civil Service Act* and *Rules of the Commission* or as provided by the employee's agency.

**Article 39, Safety and Health.**

Section 1 – applicable.

Sections 2, 3 – not applicable.

Sections 4, 5 – applicable.

Section 6 – applicable, except for the requirement to establish a committee.

Sections 7, 8 – not applicable.

**Article 40, Successors** – not applicable.

**Article 41, Family Care Leave** – applicable.

**Article 42, Political Action Committee Deductions** – not applicable.

**Article 43, Preservation of Bargaining Unit Work** – not applicable.

**Article 44, Temporary Pool Employees** – not applicable.

**Article 45, Leave Donation** – applicable

**Article 46, Termination** – not applicable. •

**Appendix I: Clerical, Administrative, and Fiscal Unit.** •

Cash Responsibility – applicable.

Meal Expenses – applicable.

Notification of Absence – applicable.

Travel Time – applicable.

Labor-Management Committees – not applicable.

Emergency First-Aid Services – not applicable.

Job Postings and Promotions – not applicable.

Personnel Files – not applicable.

Training – not applicable.

Video Display Terminals – not applicable.

Intermittent Clericals – applicable.

Hearing Stenographers – applicable.

**Appendix M:** Professional, Administrative, and Fiscal Unit.

Expense Accounts – applicable.

Lunch Expenses – applicable.

Paychecks – applicable.

Driving Regulation – applicable.

Hours of Work – not applicable. Contract provisions relating to hours of work do not apply to confidential employees.

Preparation of Reports – applicable.

Use of Commonwealth Vehicles – applicable.

Personal Telephone Calls – applicable.

Weekend Travel – Banking and Insurance – applicable.

Holidays – Banking and Insurance – applicable.

Field Employees' Mail – applicable.

Educational Leave for Professional Achievement – applicable.

Conference Requirements/PennDOT – applicable.

Training – not applicable.

**This directive replaces, in its entirety, *Management Directive 515.12* dated October 12, 1999.**